Judge Berman

08 CV 2096

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

--X

Dr. PAUL SELINGER AND MARSHA SELINGER,

Plaintiffs,

-against-

THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, in his individual and official capacity as District Attorney, KATHRYN QUINN, in her individual and official capacity as Assistant District Attorney, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10, in their individual and official capacities,

Defendants.

--X

Docket No.:

COMPLAINT
Jury Trial is Demanded

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CASHIERS

PLAINTIFFS, PAUL SELINGER AND MARSHA SELINGER, by and through their attorneys, The Law Offices of Frederick K. Brewington, state and allege as follows:

PRELIMINARY STATEMENT

1. This is a civil action seeking monetary relief, a declaratory judgment, compensatory and punitive damages, disbursements, costs and fees for violations of the Plaintiff's rights, brought pursuant to 42 U.S.C. § 1983, malicious prosecution, abuse of process, loss of consortium, and negligence/gross negligence.

2. Specifically, the Plaintiffs allege that the Defendants (collectively and individually) negligently, wantonly, recklessly, intentionally and knowingly sought to and did wrongfully deprive them of their Constitutional and common law rights, pursuant to the above mentioned statutes and causes of action by committing acts under color of law and depriving the Plaintiffs of rights secured by the Constitution and laws of the State of New York.

3. Plaintiffs allege that Defendants (collectively and individually), their agents, employees and servants unlawfully stopped, wrongfully detained, illegally and unconstitutionally seized, falsely arrested, intentionally and falsely imprisoned, falsely accused, harassed, defamed and

maliciously charged Plaintiffs, PAUL SELINGER AND MARSHA SELINGER.

4. Plaintiffs allege that the Defendants (collectively and individually) were negligent in their failure conduct a proper investigation, or intentionally refused to consider exculpatory evidence that was in Defendant's possession, readily available and/or easily obtainable. Furthermore, the defendants knew or should have known about the existence of said exculpatory evidence, but failed to review the evidence in violation of the plaintiffs' constitutional and civil rights.

5. Plaintiffs further allege that Defendants (collectively and individually) was negligent in training, hiring and supervising its Police Officers.

6. Additionally, Defendants are liable to the Plaintiffs for defamation, and for conspiring to condone and encourage such civil rights violations by failing to properly investigate and punish the actions of the Defendant police officers, and by maliciously failing to investigate, abusing process, wrongfully arresting and maliciously prosecuting
Plaintiffs.

7. As a result of the defendants' actions (or lack thereof), Plaintiff was improperly subjected to a period of imprisonment. The Plaintiffs were also wrongfully forced and subjected to criminal proceedings and prosecution.

8. Furthermore, Plaintiffs incurred significant cost and expenses due to the Defendants' actions, including but not limited to: substantial legal fees, medical bills, lost wages, loss of employment, loss of consortium, loss of business, loss of prospective business, prolonged incarceration, loss of reputation and standing in the community and in his professional capacity, and other expenses.

JURISDICTION AND VENUE

9. The jurisdiction of this Court is invoked under 28 U.S.C. §§ 1331 and 1343. This Court is requested to exercise supplemental jurisdiction with respect to Plaintiff's State Law claims pursuant to 28 U.S.C. § 1367.

10. Venue in the Southern District of New York is proper under 28 U.S.C. § 1391, based

on the fact that the place where the events and violations herein alleged occurred was New York County.

11. Prior to filing the instant complaint, Plaintiffs timely filed and/or served a notice of Claim on Defendants via the Office of New York City Corporation Counsel, New York City Office of the Comptroller, New York City Police Departments, and New York City District Attorney's Office. Notices of Claims were mailed via certified mail, return receipt in May 2007.

12. Upon information and belief, Defendants failed to conduct a hearing/examination, pursuant to General Municipal Law § 50-h and failed to reject said notice of claim within the statutorily-prescribed time in the event that same did not comply with the General Municipal Law. Thus Defendants willingly waived their rights to any such examinations/hearings as a matter of fact and law.

PARTIES

13. Plaintiffs, PAUL SELINGER AND MARSHA SELINGER, are lawfully married and are residents of the State of New York, County of Nassau.

14. Dr. PAUL SELINGER (hereinafter "DR. SELINGER") is a sixty one (61) year old male, who resides in Massapequa Park, New York. DR. SELINGER is a licensed medical doctor, who specializes in dentistry. DR. SELINGER is the principal of his own established dental practice located in Middle Village, New York.

15. MARSHA SELINGER (hereinafter "Mrs. SELINGER") is the spouse of DR. SELINGER. Mrs. SELINGER currently resides with Dr. SELINGER in their home in Massapequa Park, New York.

16. Upon information and belief, Defendant CITY OF NEW YORK (hereinafter "CITY") is a duly constituted municipal corporation of the State of New York. Upon information and belief, the CITY formed and has direct authority over several different departments including the New York City Police Department and the Office of the New York County District Attorney. The aforementioned departments and/or the employees, agents or representatives of said departments are

directly involved in violations that are the at issue in this complaint.

17. Upon information and belief, ROBERT MORGENTHAU (hereafter "MORGENTHAU") and KATHRYN QUINN (hereinafter "QUINN") , was/are employees, agents, representatives of the Defendant CITY and are employed with the New York County District Attorney's Office at all times relevant to this Complaint.

18. Upon information and belief, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 was and/or are agents, officers, representatives, and/or police officers and detectives of the New York City Police Department at all times relevant to the Complaint. Said OFFICERS and DETECTIVES were acting in furtherance of the scope of their employment, acting under color of law, to wit under color of statutes, ordinances, regulations, policies, customs and usages of the State of New York and/or the CITY. Said OFFICERS and DETECTIVES are being sued herein in their individual and official capacities.

19. The names of these officers are known by Defendants and are unknown to Plaintiffs at the time of the filing of this Complaint. Plaintiffs reserve the right to amend the Complaint upon discovery of the names of the individual officers - notwithstanding Plaintiff's discovery of their names after any applicable statute of limitations expires.

FACTUAL ALLEGATIONS

20. Dr. SELINGER is a licensed and well-established Dentist, who owns and operates his own general dental practice in New York. At all times relevant to the Complaint, Dr. SELINGER maintained an excellent and prestigious reputation in the medical industry, has always maintained good standing in his profession, and has always engaged in ethical professional practices.

21. At the times relevant to the instant Complaint, DR. SELINGER also worked and/or provided professional dental services for an organization known as Omni Medical Care and/or the Omni Medical Clinic (hereinafter "OMC").

22. Because Dr. SELINGER had to attend to his own busy private practice, Dr. SELINGER only worked and/or dedicated a maximum of (less than) one day and/or four hours per

week at OMC's various locations.

23. During the four hours that Dr. SELINGER worked per week at OMC, Dr. SELINGER's duties at OMC were limited to providing dental services to OMC patients. Dr. SELINGER was not involved in the everyday business affairs of OMC, nor did Dr. SELINGER engage in any decision-making processes on behalf of OMC.

24. Dr. SELINGER did not communicate with insurance carriers for, or on behalf of, OMC.

25. Dr. SELINGER submitted reports and records regarding the services he performed for patients to OMC and OMC would compensate Dr. SELINGER for his services. Dr. SELINGER did not directly engage in the billing or invoicing affairs of OMC.

26. Upon attending to patients at OMC, Dr. SELINGER would complete patient evaluations and submit them to OMC. These patient evaluations contained Dr. SELINGER's diagnoses, treatments, recommendations, evaluations, prescriptions, medical opinions, and recommended future course(s) of treatment (if any).

27. Upon information and belief, Dr. SELINGER submitted the patient evaluations to OMC, which would, in turn, provide said evaluations to insurance carriers and/or patients with any additional information that OMC felt was necessary in order to be reimbursed for treatments rendered at OMC by Dr. SELINGER and other physicians.

28. With respect to his reporting and billing practices, Dr. SELINGER has always performed same with utmost honesty and candor.

29. Upon information and belief, DEFENDANTS were, and have always been, well aware of the facts as outlined above in paragraphs 20 - 28.

30. Upon information and belief, from the year 2004 to the present, DEFENDANTS planned and executed an alleged sting operation and/or investigation into the billing practices of several individual doctors and medical service providers, including Abraham Pustilnik, Isabella Pustilnik, Inna Pustilnik, Michael Conrad, Gerardo Yanayaco, Victor Basbus, AAA Empire Medical

Management, inc., Premier Medical Care, P.C., Omni Medical Care, P.C. and University Psychological Care, P.C.

31. Upon information and belief, the purpose of DEFENDANTS' alleged investigation was to uncover enterprise corruption, insurance fraud, and deceptive insurance billing practices among other things.

32. Upon information and belief, initially, Dr. SELINGER was not a suspect subject of DEFENDANTS' alleged investigation.

33. In or around August 2004, DEFENDANT DETECTIVE JOHN DOE 1, acting as employee, agent, representative, and/or officer of DEFENDANT CITY and or New York City Police Department, and in furtherance of DEFENDANTS' alleged undercover sting investigation, visited OMC disguised as a patient seeking medical treatment.

34. Upon information and belief, upon visiting OMC, DEFENDANT DETECTIVE JOHN DOE 1 was seen and/or treated by Dr. SELINGER.

35. Upon information and belief, during this visit with Dr. SELINGER, DEFENDANT DETECTIVE JOHN DOE 1complained of pain and stiffness in his jaw area.

36. Upon information and belief, when DETECTIVE JOHN DOE advised Dr. SELINGER of his medical issues, Dr. SELINGER looked at the area of which DETECTIVE JOHN DOE complained in order to attempt to ascertain the problem.

37. Among other things, Dr. SELINGER did, in fact, fully examine the DETECTIVE in order to locate and diagnose the alleged problem. In furtherance of his examination, DR. SELINGER asked the DETECTIVE a series of questions so that DR. SELINGER could make a proper diagnosis.

38. Following DR. SELINGER's examination, DR. SELINGER the prescribed several courses of treatment for the undercover DETECTIVE including, but not limited to, physical therapy. In addition, DR. SELINGER recorded his course of treatment and his recommendations regarding further treatment for the undercover DETECTIVE - as is typical for doctors to do following their examinations of patients.

39. Upon information and belief, as in his routine practice, Dr. SELINGER then submitted his records of the treatment of the undercover DETECTIVE to Omni Medical Care for their information, review, records, and for further process as was necessary.

39. Following this single visit by DETECTIVE JOHN DOE, DR. SELINGER never saw the DETECTIVE again for any follow-up visits or treatment.

40. Following this single visit by DETECTIVE JOHN DOE, DR. SELINGER never spoke with the undercover DETECTIVE again.

41. Following this single visit by DETECTIVE JOHN DOE, DR. SELINGER was never asked or required by anyone at Omni Medical Care to perform follow-up treatment or to submit any further medical documentation with respect to the alleged patient, DETECTIVE JOHN DOE 1.

42. Following this single visit by DETECTIVE JOHN DOE, DR. SELINGER did nothing further regarding the treatment of DETECTIVE JOHN DOE 1.

43. DR. SELINGER never submitted the records of the treatment of DETECTIVE JOHN DOE 1 to any insurance companies for payment or for any other reason.

44. DR. SELINGER never dealt with billing and/or any aspects of procuring payments from customers of Omni Medical Care, P.C.

45. DR. SELINGER never communicated with anyone outside of Omni Medical P.C. regarding any aspects of treatment of DETECTIVE JOHN DOE 1.

46. Besides examining patients, rendering diagnoses of patients, and treating patients according to his findings, and reporting his findings and treatment to Omni Medical , DR. SELINGER does nothing further.

47. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that Dr. SELINGER was never asked or required by anyone at Omni Medical Care to perform follow-up treatment or to submit any further medical documentation with respect to the alleged patient, DETECTIVE JOHN DOE 1.

48. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that Dr. SELINGER did nothing further regarding the treatment of DETECTIVE JOHN DOE 1.

49. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that Dr. SELINGER never submitted the records of the treatment of DETECTIVE JOHN DOE 1 to any insurance companies for payments or for any other reason.

50. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that Dr. SELINGER never dealt with billing and/or any aspects of procuring payments from customers that visited Omni Medical Care, P.C. (Including DETECTIVE JONH DOE 1) or from their insurance companies.

51. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that DR. SELINGER never dealt with billing and/or any aspects of procuring payments from customers of Omni Medical Care, P.C.

52. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that DR. SELINGER never communicated with anyone outside of Omni Medical P.C. regarding any aspects of treatment of DETECTIVE JOHN DOE 1.

53. Upon information and belief, Defendants knew, should have known, or would have known had they conducted minimal investigation (during this alleged "sting" operation wherein they were seeking to charge persons with criminal activity), that Besides examining DETECTIVE JOHN

DOE 1, rendering diagnosis, and treating (or recommending treatment of) DETECTIVE JOHN DOE 1 according to his findings, and reporting his findings and treatment to Omni Medical , DR. SELINGER did nothing further.

54. The evidence was clear that DR. SELINGER was not involved in any activity, plan, scheme, or conspiracy to defraud patients or insurance companies.

55. Insofar as it was not clear to Defendants whether DR. SELINGER was involved in an alleged insurance fraud scheme, Defendants failed and/or refused to conduct even a minimal investigation into DR. SELINGER and/or his practices to determine whether DR. SELINGER was actually involved or the extend of his involvement if any.

56. Insofar as it was not clear to Defendants whether DR. SELINGER was involved in an alleged insurance fraud scheme, Defendants failed and/or refused to corroborate or attempt to corroborate their allegations of criminal activity regarding DR. SELINGER.

57. Defendants lacked necessary reasonable suspicion, reasonable cause, or probable cause (of any kind) to suspect and/or accuse DR. SELINGER of criminal activity and/or of being involved in an alleged criminal conspiracy.

58. Defendants lacked necessary reasonable suspicion, reasonable cause, or probable cause (of any kind) to suspect and/or accuse DR. SELINGER of even knowing of the existence of criminal activity and/or of an alleged criminal conspiracy.

59. Defendants lacked necessary reasonable suspicion, reasonable cause, or probable cause (of any kind) to suspect and/or accuse DR. SELINGER unprofessional medical and business practices.

60. Following that single visit of DETECTIVE JOHN DOE 1 to DR. SELINGER on August 4, 2004, sometime thereafter, Defendants accused DR. SELINGER, along with several other doctors and medical professional practices, including but not limited to Omni Medical P.C. of conspiracy, insurance fraud, enterprise corruption, grand larceny, and other alleged crimes.

61. Following that single visit of DETECTIVE JOHN DOE 1 to DR. SELINGER on

August 4, 2004, sometime thereafter, Defendants accused DR. SELINGER, of unprofessional medical practices, including criminal activity. The collective Defendants' theory regarding DR. SELINGER was merely the DR. SELINGER was present at Omni Medical Care and did work for Omni Medical Care, and so DR. SELINGER must have been guilty of something.

62. Following that single visit of DETECTIVE JOHN DOE 1to DR. SELINGER on August 4, 2004, sometime thereafter, Defendants falsely and maliciously arrested and/or caused the arrest, of DR. SELINGER.

63. Following that single visit of DETECTIVE JOHN DOE to DR. SELINGER on August 4, 2004, sometime thereafter, Defendants recklessly, wantonly, negligently, intentionally, carelessly, and with little regard for the welfare of Dr. SELINGER or the truth of their allegations, alleged that DR. SELINGER was involved in an ongoing scheme along with others to defraud individuals and insurance companies and/or to seek payment for medical services, which Dr. SELINGER did not perform.

64. Following that single visit of DETECTIVE JOHN DOE to DR. SELINGER on August 4, 2004, sometime thereafter, Defendants falsely accused DR. SELINGER, of engaging in a conspiracy to defraud, insurance fraud, enterprise corruption, grand larceny, and other alleged crimes.

65. Defendants knew, should have known, or would have known with reasonable diligence and caution that their allegations against Dr. SELINGER were unfounded, unsupported, or without legal and/or factual basis.

66. Defendant QUINN and the other individual Defendants attempted to and did, in fact, initiate a malicious criminal proceeding against DR. SELINGER wherein they falsely accused DR. SELINGER of grand larceny, enterprise corruption, conspiracy, and fraud - among other things.

67. In furtherance of their grossly negligent and/or malicious prosecution against DR. SELINGER, Defendant QUINN and the other individual Defendants collectively endeavored to make statements and submit prejudicial evidence to a Grand Jury in an effort to make sure that DR.

SELINGER would be indicted and charged with felonies.

68. In furtherance of their grossly negligent and/or malicious prosecution against DR. SELINGER, Defendant QUINN and the other individual Defendants collectively decided to submit evidence of the wrongdoing of others against DR. SELINGER to insure that the Grand Jury would indict DR. SELINGER along with others that were allegedly involved in a conspiracy to defraud.

69 Upon information and belief, Defendant QUINN and the other individual Defendants knew, should have known, or would have know had they conducted a minimal investigation that the evidence against DR. SELINGER was scant and insufficient.

70. Upon information and belief, Defendant QUINN and the other individual Defendants, with knowledge that their alleged evidence against DR. SELINGER was weak, unsupported, and uncorroborated endeavored to prejudice DR. SELINGER before the Grand Jury and assure the Dr. SELINGER would be indicted, by offering evidence of wrongdoing by other doctors, persons, and entities.

71. Upon information and belief, Defendant QUINN and the other individual Defendants each knew that their actions against DR. SELINGER was wrongful and violated DR. SELINGER'S various Constitutional rights.

72. Upon information and belief, Defendant QUINN and the other individual Defendants each knew that their allegations against DR. SELINGER would cause serious and irreparable harm to DR. SELINGER's: career, medical practice, standing in the professional community, reputation in the community in general, and family.

73. As a direct result of the collective Defendants' malicious, reckless, careless, wanton, and grossly negligent actions against DR. SELINGER before the Grand Jury, which included withholding and concealing exculpatory (*Brady*) evidence in their possession with respect to DR. SELINGER, Dr. SELINGER was indicted by the Grand Jury.

74. As a direct result of the collective Defendants' malicious, reckless, careless, wanton, and grossly negligent actions against DR. SELINGER before the Grand Jury, which included relating

evidence that was related to others to Dr. SELINGER, Dr. SELINGER was indicted by the Grand Jury.

75. As a direct result of the collective Defendants' malicious, reckless, careless, wanton, and grossly negligent actions against DR. SELINGER before the Grand Jury, which included providing unsubstantiated, uncorroborated, prejudicial, and untrue evidence about DR. SELINGER to the Grand Jury, Dr. SELINGER was indicted by the Grand Jury.

76. As a direct result of the collective Defendants' malicious, reckless, careless, wanton, and grossly negligent actions against DR. SELINGER before the Grand Jury, which included providing confusing, obscure, and incomplete evidence to the Grand Jury, Dr. SELINGER was indicted by the Grand Jury.

77. At all times relevant to the Complaint, Defendant QUINN and the other individual Defendants knew or should have know that their actions against DR. SELINGER before the Grand Jury was malicious, abusive and harmful and would cause serious injuries to DR. SELINGER, his profession and his family.

78. Defendant QUINN and the other individual Defendants continued to misrepresent evidence as it related to DR. SELINGER to the Court and to the Grand Jury to insure the DR. SELINGER would be indicted with the others that were allegedly involved in an alleged criminal conspiracy and/or enterprise.

79. In addition, Defendants continued to relay and broadcast harmful, uncorroborated, unsubstantiated, malicious, prejudicial and harmful information to the media and public at large regarding DR. SELINGER and his alleged involvement in a criminal enterprise and in criminal activity.

80. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER met with DETECTIVE JOHN DOE 1 for approximately only five minutes wherein DR. SELINGER merely examined the officer's ears and moved the officer's jaw up and down.

81. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER

never asked the DETECTIVE JOHN DOE about his prior medical, dental or social history and never did more than a cursory physical examination of DETECTIVE JOHN DOE 1.

82. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER prescribed a medically unnecessary course of treatment for DETECTIVE JOHN DOE.

83. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER provided false information that DETECTIVE JOHN DOE complained about numerous symptoms, about which the DETECTIVE did not actually mention.

84. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER submitted a materially false comprehensive patient evaluation to and insurance company (St. Paul Travelers Company) regarding his treatment of DETECTIVE JOHN DOE 1.

85. Among other things, Defendants falsely advised the Grand Jury that DR. SELINGER then reported that DETECTIVE JOHN DOE 1 came for additional therapy and visits which never occurred.

86. Defendants refused to advise the Grand Jury and the public that DR. SELINGER's involvement with Omni Medical was limited. Defendant refused to advise the Grand Jury whether DR. SELINGER ever actually saw DETECTIVE JOHN DOE 1's patient file and/or whether DR. SELINGER did anything to procure payment from anyone for the treatment of DETECTIVE JOHN DOE 1.

87. Though Defendant accused DR. SELINGER of fraud in falsely reporting services to insurance companies along with Omni Medical Care, among other things, Defendants never advised the Grand Jury whether Dr. SELINGER, himself, actually or knowingly made, approved, or became aware of inaccurate or exaggerated entries for his patient (in this case DETECTIVE JOHN DOE 1).

88. Upon information and belief, Defendants, especially DETECTIVE JOHN DOE 1, knew that his allegations against DR. SELINGER were untrue and/or unfounded, yet they each continued with their false allegations against DR. SELINGER before the Grand Jury.

89. Though Defendant QUINN and the other individual Defendants were sure to accuse DR. SELINGER of being part of an alleged criminal conspiracy, Defendants knew, should have known, or would have know with minimal investigation whether DR. SELINGER actually did anything to further the alleged conspiracy - which he did not.

90. In furtherance of their intention to maliciously prosecute DR. SLEINGER and to make sure that DR. SELINGER would be negatively affected in the public eye, Defendants held press conferences and broadcasted public announcements to the media about DR. SELINGER's alleged involvement in a conspiracy, or criminal enterprise, to defraud insurance companies during several news/press conferences throughout the years 2005 and 2006.

91. Defendants, including Defendant MORGENTHAU, held several press conferences and made several public addresses wherein Defendant MORGENTHAU announced that DR. SELINGER, along with others that were arrested in connection with the alleged criminal enterprise, allegedly "used their sophisticated schemes to steal millions from insurance companies" and caused the public at large to suffer from millions of dollars in "higher insurance premiums."

92. Defendant MORGENTHAU's careless and reckless announcements to the public that DR. SELINGER was involved in criminal and unprofessional activity were made in furtherance of the alleged criminal investigation and were also made knowing that such statements were uncorroborated and would be detrimental to Plaintiffs' professional and personal reputations.

93. Defendant MORGENTHAU's and QUINN's careless and reckless announcements to the public and press that DR. SELINGER was involved in criminal and unprofessional activity were outside of the scope of the District Attorneys' duties to prosecute in good faith and were not part of the normal course of business of the District Attorney's office.

94. In addition to his wrongful public statements to the public concerning DR. SELINGER, Defendants MORGENTHAU and QUINN advanced, furthered, supported and ordered the malicious prosecution of DR. SELINGER, which was callous, reckless, and demonstrated a grossly negligent disregard for the welfare of DR. SELINGER, his profession and reputation.

95. The collective Defendants were interested merely in linking as many persons and professional medical companies as possible to the alleged enterprise corruption, as opposed to making sure that their allegations were accurate and supported as and against each individual allegedly involved (such as Plaintiff Dr. Selinger).

96. Individual Defendants, each and every one of them, were acting pursuant to their own individual personal interests and not pursuant to established the policies, practices, protocols, or procedures of the New York City Police Department and/or THE CITY OF NEW YORK when they investigated, wrongfully accused, arrested, and prosecuted Dr. SELINGER.

97. Defendants, each and every one of them, were acting pursuant to their own individual personal motives - in that - being involved in and/or being a part of a sting operation of such alleged importance, magnitude and press-worthiness would lead each individual Defendant to their own personal career advancements, political advancements, and accolades within their law enforcement profession(s). Defendants were also wrongfully attempting to procure hundreds of thousands of dollars in restitution payments and fines from DR. SELINGER - as opposed to wanting to make sure justice was done.

98. As a result of the collective Defendants' malicious, wanton, careless, reckless, intentional, and grossly negligent actions against DR. SELINGER before the Grand Jury, DR. SELINGER was wrongfully indicted and charged with felonies.

99. Upon information and belief, Defendants utilized and/or relied upon criminal allegations related to other individuals and professional medical companies to insure that DR. SELINGER would be found guilty by his professional association to the aforementioned - not because DR. SELINGER was actually involved in any of the alleged criminal activities alleged by Defendants or not because Defendants actually had information to substantiate said false allegations.

100. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER was arrested and/or caused to be arrested.

101. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER was wrongfully charged.

102. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER was caused to suffer monetary losses to his own dental practice.

103. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER was caused to lose patients and clientele to his own personal professional dental practice.

104. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER was caused to lose standing in his community and in his profession.

105. As a direct result of the collective Defendants' wrongful, malicious, grossly negligent, wanton, reckless, and intentional actions, DR. SELINGER lose the confidence of his family, friends, acquaintances, professional comrades, and profession.

106. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, DR. SELINGER's business-related bank accounts and other assets were frozen and subjected to forfeiture proceedings.

107. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, DR. SELINGER's personal bank accounts and other assets were frozen and subjected to forfeiture proceedings.

108. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, DR. SELINGER's was subject to arrest, was actually arrested and was caused to suffer imprisonment.

109. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, DR. SELINGER's was caused to lose days, time, and income from his professional dental practice and from his life.

110. As a direct result of Defendants' collective actions, Plaintiffs' personal and professional lives were turned upside-down.

111. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, Plaintiff MARSHA SELINGER's personal bank account and personal assets were frozen and subjected to forfeiture.

112. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, Plaintiff MARSHA SELINGER, who relies upon DR. SELINGER for financial support was caused to be without said financial support for an extended period of time.

113. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, Plaintiff MARSHA SELINGER, who relies upon DR. SELINGER for emotional support was caused to be without said support for an extended period of time.

114. As a direct result of Defendants' malicious and grossly negligent prosecution of Dr. SELINGER, Plaintiff MARSHA SELINGER, was cause to suffer a loss of consortium. Plaintiff's MARSHA and PAUL SELINGER was caused to suffer injuries to their marital relationship.

115. Over two years followed after DR. SELINGER'S arrest and Defendants' commencement of the criminal action against DR. SELINGER. However, during those two years, Defendants did not obtain any new evidence on DR. SELINGER, tending to prove his association with, knowledge of, or participation in any conspiracy to defraud, larceny, improper action of any kind, or unprofessional conduct.

116. Although the evidence against DR. SELINGER remained weak and nonexistent, Defendants after over two years of alleged investigation and preparation for trial, Defendants continued their malicious prosecution against DR. SELINGER and refused to dismiss the charges against DR. SELINGER.

117. Although the evidence against DR. SELINGER remained weak and nonexistent, Defendants after over two years of alleged investigation and preparation for trial, Defendants

continued their malicious prosecution against DR. SELINGER and Plaintiffs' professional and personal lives continued to suffer irreparable and ongoing harm, injury, and damages as stated above.

118. The Defendants (collectively and individually), their employees and agents failed to carry out a proper investigation of witnesses, and exculpatory evidence even though the police were made aware and knew evidence and witnesses existed, which would have exculpated the DR. SELINGER.

119. The Defendants (collectively and individually) , their employees and agents wrongfully arrested, wrongfully imprisoned, wrongfully detained and maliciously prosecuted the DR. SELINGER based upon false and uncorroborated accusations and evidence.

120. Upon information and belief, the Defendants (collectively and individually) lacked probable cause based upon a proper investigation of the facts and therefore wrongfully arrested, wrongfully imprisoned, wrongfully detained and maliciously prosecuted DR. SELINGER in violation of his constitutional rights as secured under the Constitutions of the United States and New York State.

121. Though Defendants knew or should have known that their criminal charges against DR. SELINGER were improper, Defendants, instead of dismissing the charges, attempted to force DR. SELINGER to accept a plea agreement, which included civil forfeiture, imprisonment, and an agreement to surrender his license to practice dentistry for five years.

122. DR. SELINGER rejected the Defendant offer of a plea agreement, continued to proclaim his innocence, and called for the Defendants to conduct further investigation into their allegations. Defendants refused to heed DR. SELINGER'S concerns or their own duties to prosecute in good faith.

123. By decision of the Honorable Roger S. Hayes, Judge of the criminal court, under which DR. SELINGER'S criminal prosecution proceeded, DR. SELINGER'S criminal case (People v. Pustilnik, et al. Index No: 2005/2759) was dismissed outright with respect to DR. SELINGER on March 1, 2007.

124. Judge Hayes, in his decision dismissing the charges against DR. SELINGER wrote that there was "insufficient evidence to support any charge against Selinger."

125. In addition, Judge Hayes, in his decision dismissing the charges against DR. SELINGER, wrote that "the evidence showed that there was only a single visit by an undercover detective pretending to be a patient on a single date, August 25, 2004."

126. Judge Hayes, in his decision dismissing the charges against DR. SELINGER, wrote that "the evidence reflects that Selinger asked him questions, examined his jaw and prescribed physical therapy."

127. Judge Hayes, in his decision dismissing the charges against DR. SELINGER, wrote that "the evidence shows the Selinger never again met with [the detective] and there was no evidence in the Grand Jury he ever saw the patient's file which contained inaccurate descriptions of the patient's complaints, the type and duration of the examination Selinger performed . . . and the evaluation of his condition."

128. Judge Hayes, in his decision dismissing the charges against DR. SELINGER, wrote that "there is no evidence, direct or circumstantial, Selinger made, approved, or became aware of inaccurate or exaggerated entries for this patient, nor that he had any knowledge other members of the Putilnik Group would do so."

129. Though it was quite evident to the criminal court that DR.. SELINGER was innocent and that the charges maliciously leveled against DR. SELINGER were insufficient, Defendants refused to dismiss their counts against DR. SELINGER though they were aware of the harm said charges caused and were causing to DR. SELINGER.

AS AND FOR A FIRST COUNT
42 U.S.C. § 1983

130. The plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs 1 through 129 of this complaint with the same force and effect as though fully set forth herein.

131. The Individual Defendants, their agents, employees and servants, lacked reasonable

suspicion to arrest and detain DR. SELINGER.

132. The Individual Defendants, their agents, employees and servants lacked probable cause to arrest DR. SELINGER or retain him in prolonged custody .

133. The wrongful stop, false detainment, assault, wrongful arrest, malicious prosecution, and other wrongful acts conducted against the plaintiff DR. SELINGER by the collective defendants their agents, employees, officers, and servants, were committed under color of law, customs, and statutes of the State of New York.

134. Under color of law, the Defendants, their agents, employees and servants deprived the plaintiffs DR. SELINGER of hisFourth, Fifth, and Fourteenth Amendment rights to protection from unlawful search and seizure, and due process, by falsely arresting, wrongfully detaining, unlawfully and falsely charging the Plaintiff DR. SELINGER with criminal charges, of which there was no evidence or substantiation of any kind.

135. The accusations of wrongful actions leveled against the DR. SELINGER were false and were an attempt to cover up the false arrest, abuse of process, intentional and false imprisonment, false accusations, harassment, malicious prosecution, gross negligence and defamation which was been inflicted by the defendants on DR. SELINGER.

136. The false arrest and prosecution of plaintiff DR. SELINGER without probable cause, and other wrongful acts conducted against the plaintiff DR. And MRS. SELINGER by defendants, including, but not limited to defendants' unconstitutionally seizing, falsely arresting, intentionally and falsely imprisoning, falsely accusing, harassing, defaming, and maliciously charging DR. SELINGER constitutes a violation of plaintiffs' rights, secured by the Fourth Amendment to the United States Constitution, to be free from unreasonable searches and seizures. Such actions were negligent, reckless, unreasonable, grossly negligent and unauthorized, as the defendants had a duty to not subject Plaintiff to false arrest and summary punishment, but failed to prevent same and breached their duty.

137. The Individual Defendants, their agents, employees and servants acted under color

of law to deny the Plaintiffs, their constitutional rights to due process and freedom from seizure, by wrongfully charging DR. SELINGER and holding him under the threat of imprisonment for an indeterminate period of time, without providing a reasonable basis and/or investigation warranting custody, or other due process guarantees secured to the Plaintiffs by the Fifth and Fourteenth Amendments of the United States Constitution.

138. Such abuse of process was continued by the defendants, their agents, servants and employees in their refusal to adequately investigate the charges against DR. SELINGER and to properly review and investigate the actions of defendant officers and officials for their actions against DR. SELINGER.

139. Specifically, defendants failed to investigate and verify their own allegations against DR. SELINGER. Defendants, their agents, employees and servants lacked significant hearing or consideration on the substantial evidence supporting plaintiff's innocence–such evidence included scientific evidence, official reports, governmental determinations, witnesses, alibis consistent testimony, documentary evidence (or lack thereof) and the blatant lack of any true probable cause.

140. As a consequence of Defendants' wrongful actions, negligent behavior, and violation of State and Federal laws, Plaintiff was deprived of their freedom; subject to great physical mental and emotional harm; made to suffer great pain and suffering; and was subjected to great fear, terror, personal humiliation, degradation and loss to his professional reputation. Plaintiffs and continue to suffer pain and mental and emotional distress as a result of the aforesaid unlawful conduct of Defendants, their agents, employees, and servants.

141. In addition, Plaintiff MASHA SELINGER was caused to suffer undue stress, pain, embarrassment, humiliation, emotional injury, loss of financial support, loss of consortium, loss of emotional support, injury to marital relations, monetary injuries, etc.

142. That by reason of the foregoing, Plaintiffs have been damaged in the sum of TEN MILLION DOLLARS ($10,000,000.00).

AS AND FOR A SECOND COUNT
42 U.S.C. § 1983 - MUNICIPAL LIABILITY

143. The plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 142 of this complaint with the same force and effect as though fully set forth herein.

144. In actively inflicting and failing to prevent the above stated abuses incurred by plaintiffs, the defendants acted unreasonably, recklessly, and negligently in failing to exercise the slightest amount of due care to secure and protect the civil and constitutional rights of the plaintiffs against illegal search and seizure, physical abuse, detained custody and other due process violations. Said rights are guaranteed to the plaintiffs by 42 U.S.C. §§ 1983 and by the Fourth, Fifth, and Fourteenth Amendment of the Constitution.

145. The Defendant CITY OF NEW YORK, by and through its agents, employees, representatives, police officers, officers, and attorneys has permitted, tolerated and encouraged a pattern and practice of unjustified, unreasonable and illegal abuses and arrest by police officers of the CITY, and the wrongful detention of the same.

146. Although such police conduct was clearly and blatantly improper, said incidents were covered up by the CITY, its agents, employees and servants by official claims that the officers' harassments, false arrests, malicious prosecutions, and false imprisonments were justified and proper, or by leveling false charges against the persons so falsely charged, so as to insulate the offending police officers and other officials.

147. Said charges and official claims have been fully backed by the CITY, which has repeatedly and unreasonably sided with the abuse of persons so effected in nearly all cases, despite vast evidence of wrongdoing by its officers, including Plaintiffs herein.

148. Additionally, the CITY has systematically failed to identify the improper abuse, misuse and violative acts by police officers and officials, while further failing to subject such officers and officials to discipline, closer supervision or restraint.

149. Upon information and belief, specific systemic flaws in the CITY OF NEW YORK'S misconduct review process include but are not limited to the following:

a. Preparing reports regarding investigations of unwarranted incidents as routine point-by-point justification of the police officers actions regardless of whether such actions are justified;

b. Police officers investigating unwarranted incidents systematically fail to credit testimony by non-police officer witnesses and uncritically rely on reports by police officers involved in the incident;

c. Police officers investigating unwarranted incidents fail to include in their reports relevant factual information which would tend to contradict the statements of the police officer involved;

d. Supervisory police officers exonerate police officers for misconduct and abuse of process before the investigation of the incident by the police department has been completed;

f. hastily accepting the polices' above- as provided information from police reports regarding abuses and civil rights infringements, despite strong evidence to suggest that the police reports are inaccurate, untruthful, and meant to conceal blatant police misconduct.

150. Said cover-up by the defendant, CITY, was executed in this case, where the defendant, its agents, employees and servants failed to sufficiently investigate the truthfulness and accuracy of the DETECTIVE JOHN DOES 1-10's, statement sand instead acted under color of statute to knowingly, recklessly and/or negligently impose false criminal charges upon the DR. SELINGER.

151. Defendant CITY failed/refused to adequately train and supervise their officers, agents and representatives including but not limited to, Defendants, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 with respect to probable cause, arrests incident to probable cause, making public statements of criminal activity about persons to which cause is lacking, conducting proper criminal investigations and follow-up investigation. The CITY's intentional failure to supervise or train individual Defendants and its other law enforcement agent directly led to the violations against Plaintiff as described in the Complaint.

152. By permitting and assisting such a pattern of police misconduct, the Defendant, CITY acted under color of custom and policy to condone, encourage and promote the deprivation

of Plaintiffs' Fourth, Fifth and Fourteenth Amendment rights; to wit the defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 were encouraged by the CITY, to believe that their actions against the PLAINTIFFS would be accepted without impunity, just as these actions have been so accepted to date.

153. As a consequence of the defendants' systemic practice, pattern, and custom of intentionally promoting and supporting officers' and official violations of 42 U.S.C. § 1983, Plaintiffs were deprived of their freedom and physically and emotionally harmed, to the extent of which they suffered from emotional distress, financial hardship, loss of standing in the medial community, loss of standing among their peers, loss of business, injury and harm to their marital relationship, and other harm as stated in the paragraphs above.

154. As a proximate cause of the THE CITY OF NEW YORK's custom and policy of supporting and effectively promoting the very same police abuses which occurred against Plaintiffs, said plaintiffs were subjected to great fear, personal humiliation and degradation, with wanton disregard for the serious harm and damage done to the physical and emotional well beings of the plaintiffs.

155. That by reason of the foregoing, Plaintiffs have been damaged in the sum of Ten Million Dollars ($10,000,000.00).

AND AS FOR A THIRD COUNT
MALICIOUS PROSECUTION

156. The Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs 1 through 155 of this Complaint with the same force and effect as though fully set forth herein.

157. Following Defendant's careless, reckless, and grossly negligent investigation into an alleged conspiracy or criminal enterprise, Defendants under color of law, customs, and statutes of the State of New York, began and continued a unreasonable criminal prosecution against Plaintiff DR. SELINGER without cause.

158. Under color of law, the Defendants deprived DR. SELINGER of his rights to protection from unlawful search and seizure by falsely charging him criminally and prosecuting him pursuant to said criminal statutes, for which there was no evidence or substantiation of any kind to support the allegations.

159. The accusations of criminal activity leveled against DR. SELINGER by the Collective Defendants were false and lacked substantiation, corroboration, cause, justification, or factual support of any kind and was therefore malicious.

160. Even if Defendant were in possession of some form of probable cause linking DR. SELINGER to illegal activity, said probable cause diminished and or was eliminated by evidence which were known to Defendants, and/or would have been known had Defendants conducted a minimal good faith investigation.

161. At the time that Defendants began their criminal prosecution against DR. SELINGER, Defendants knew or should have known that the evidence they asserted against DR. SELINGER was false or unsubstantiated.

162. Defendants nevertheless intended to prosecute DR. SELINGER by and/or through his association to others persons and entities, which Defendants were also prosecuting at that time.

163. At all times relevant to the Complaint, Defendants' prosecution against DR. SELINGER was committed with malicious intent or purpose and was not done in furtherance of the pursuit of justice.

164. The malicious prosecution of Plaintiffs DR. SELINGER without probable cause, and other wrongful acts conducted against the Plaintiffs by Defendants constitutes a violation of Plaintiffs' rights, secured by the New York State Constitution, to be free from unreasonable searches and seizures. Such actions were negligent, reckless, unreasonable and unauthorized, as Defendants had a duty to not subject Plaintiffs to summary punishment, but failed to prevent same and breached their duty.

165. The Defendants acted under color of law to deny the Plaintiffs their constitutional

rights to due process and freedom from seizure, by wrongfully detaining them under the threat of imprisonment, without providing any reasonable basis and or investigation warranting prosecution, or other due process guarantees secured to the Plaintiffs.

166. On March 1, 2007, all criminal charges against DR. SELINGER in the matter of People v. Pustilnik, et al. (Index No: 2005/2759), the criminal proceeding against DR. SELINGER that was maliciously initiated by the collective Defendants herein, were dismissed outright and/or terminated in DR. SELINGER'S favor.

167. As a consequence of Defendants' wrongful actions, negligent behavior, and violation of state laws, Plaintiffs were deprived of their freedom, was made to suffer monetary injuries, and was subjected to great fear and terror and personal humiliation and degradation , and continues to suffer pain and mental and emotional distress as a result of the aforesaid unlawful conduct of the Defendants.

168. In addition, Plaintiff MASHA SELINGER was caused to suffer undue stress, pain, embarrassment, humiliation, emotional injury, loss of financial support, loss of consortium, loss of emotional support, injury to marital relations, monetary injuries, etc.

169. That by reason of the foregoing, Plaintiffs have been damaged in the sum of ten million ($10,000,000.00) dollars.

AS AN FOR A FOURTH COUNT
ABUSE OF PROCESS

170. The Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs 1 through 169 of this Complaint with the same force and effect as though fully set forth herein.

171. The Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 intentionally, recklessly and maliciously filed and/or cause to be filed, a false, inaccurate, and/or misleading criminal complaint against DR. SELINGER. Said criminal complaint was made by the aforementioned Defendants without research and investigation (of any kind) into the veracity and/or

truthfulness of said complaint.

172. The false criminal complaint lodged by Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 was done with knowledge that the facts contained therein were false, misleading and/or otherwise inaccurate.

173. The Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 did not file said criminal complaint as a result of actual knowledge that a crime was committed by DR. SELINGER, determined through investigation and/or a simple rudimentary search, which was available to Defendants at all time relevant to this Complaint.

174. Instead, Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 filed said false criminal complaint against DR. SELINGER with an ulterior purpose/motive to collect payments and various forms of restitutions from DR. SELINGER and to subject DR. SELINGER to the criminal justice system in order to force and compel Dr. SELINGER into submitting to said payments, restitutions and fees through threats of conviction.

175. Defendants' THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 clear intention was to use the criminal justice system to terrorize DR. SELINGER for his affiliations with others and to cause harm to DR. SELINGER without proper motive, excuse or justification of any kind.

176. Defendants were motivated to prosecute DR. SELINGER along with others in an attempt to advance Defendants' own professional and political agendas - not to because they believed that DR. SELINGER was actually guilty of any crimes.

177. Defendants' THE CITY OF NEW YORK's, ROBERT M. MORGENTHAU's, KATHRYN QUINN's, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10's

[mis]use of criminal process for the aforementioned improper purpose amounted to an abuse of said process, which was initiated and used to the detriment of Plaintiff solely for a purpose that was/is outside the legitimate ends of the criminal process.

178. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 and without any investigation and/or rudimentary query, based upon facts existing at all times relevant to the Complaint; intentionally, recklessly and maliciously cause to be filed, said false, inaccurate, and/or misleading criminal complaint against DR. SELINGER. Said criminal complaint was made by the aforementioned Defendants without research and investigation (of any kind) into the veracity and/or truthfulness of said complaint.

179. The subsequent false arrest and malicious prosecution of Plaintiff was done by Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 with knowledge that the facts contained therein were false, misleading and/or otherwise inaccurate.

180. The Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 did not initiate the arrest and prosecution of DR, SELINGER as a result of actual knowledge that a crime was committed by DR. SELINGER.

181. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 intentionally and knowingly failed and refused to conduct a simple investigation that would have vindicated DR. SELINGER of the criminal allegations and presented fact to the Grand Jury that were misleading, false, and unsubstantiated.

182. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 searched, seized, harassed, annoyed, falsely arrested, falsely imprisoned, and maliciously prosecuted

Plaintiff with an ulterior purpose/motive to collect payments, fees and various forms of restitutions from DR. SELINGER to which Defendants were not entitled. Defendants were motivated by the intent to subject DR. SELINGER to the criminal system in order to force, coerce and justify restitutions, payments, and fees and also to advance their own personal and political agendas.

183. Defendants' Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 clear intention was to use falsely arrest, and falsely prosecute DR SELINGER and to cause harm to DR. SELINGER without proper motive, excuse, or justification of any kind.

184. Defendants' THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 use of criminal process for the aforementioned improper purpose amounted to an abuse of said process, which was initiated and used to the detriment of Plaintiff solely for a purpose that was/is outside the legitimate ends of the criminal process.

185. As a direct consequence of the collective Defendants' wrongful actions, negligent behavior, and violation of state/federal laws, Plaintiff was: deprived of her freedom, subjected to false criminal arrest, subjected to malicious criminal prosecution, made to suffer great personal physical injuries, made to suffer financial/monetary injuries, subjected to great fear, terror, loss of income, loss of business, legal fees, costs, special damages, expenses, loss of freedom, personal humiliation and degradation, and continues to suffer pain and mental and emotional distress as a result of the aforesaid unlawful conduct of the Defendants.

186. In addition, Plaintiff MASHA SELINGER was caused to suffer undue stress, pain, embarrassment, humiliation, emotional injury, loss of financial support, loss of consortium, loss of emotional support, injury to marital relations, monetary injuries, etc.

187. That by reason of the foregoing, Plaintiffs have been damaged in the sum of ten million ($10,000,000.00) dollars.

AS AND FOR A FIFTH COUNT
NEGLIGENCE AND/OR GROSS NEGLIGENCE

188. The Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs 1 through 187 of this Complaint with the same force and effect as though fully set forth herein.

189. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 and each of them in their individual and official capacities had a duty under New York State Constitution and the Constitution of the united States to prevent and cease the wrongful detainment, false arrest, false imprisonment, malicious prosecution and false charging, and other wrongful acts that were committed against Plaintiff.

190. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 and each of them in their individual and official capacities had a duties to conduct proper investigations with regard to all criminal complaints lodge against individuals to assure that said complaints are accurate and truthful. Defendants are required to undergo any and all investigative procedures reasonably available to make sure persons are not falsely/wrongfully arrested and charged.

191. Defendants have a duty to arrest and prosecute individuals only when there is probable cause to effect and arrest and/or to subject a person to said prosecution.

192. Defendants had a duty to train and supervise its employees, agents, officers, and representatives to ensure that Defendants would arrest and prosecute only those against whom a basis for said prosecution could be properly articulated.

193. Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 failed with respect to all of the above mentioned duties owed to Plaintiff.

194. As a direct proximate cause of Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS

JOHN/JANE DOES 1-10 failures, Plaintiffs were caused to suffer great harm including, but not limited to: mental anguish, emotional pain and suffering, loss of business, loss to reputation, legal costs and fees, false arrest, criminal prosecution, and other injuries/damages all of which were foreseeable and reasonably foreseeable by Defendants.

195. Plaintiff would not have been caused to suffer any of the above-mentioned injuries but for Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 breach of duties and failures.

196. In actively inflicting and failing to prevent the above stated abuses incurred by Plaintiff, Defendants THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 acted unreasonably, recklessly, and negligently in failing to exercise the slightest amount of due care to secure and protect the civil and constitutional rights of the Plaintiff against illegal search and seizure, physical abuse, detained custody and arrest without other due process violations. Said rights are guaranteed to the Plaintiff by New York State Constitution and the Federal Constitution.

197. In addition, Defendants are vicariously liable for the negligent/grossly negligent actions of the individual Defendants which were all committed while said individuals were acting in furtherance of CITY OF NEW YORK's , The New York City Police Department's, and The New York County District Attorney's offices' official business.

198. All of the above-mentioned improper actions taken by ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 against Plaintiff were committed while acting within the scope of their authorities and assigned duties as an employees, agent, officer for CITY OF NEW YORK.

199. THE CITY OF NEW YORK knew and/or should have known that said improper activity and blatant violations of Plaintiffs' Constitutionally secured rights were taking place by its employees while acting within the scope of his assigned duties.

200. ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 effected an summary arrest of Plaintiff with no probable cause for same. In addition, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 failed and refused to employ simple and rudimentary investigative procedures (available to them at all times relevant to this complaint) in order to determine whether probable cause existed.

201. ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 refused/failed conduct said investigation to the detriment of Plaintiffs.

202. Also, ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 filed and/or caused to be filed, false pertaining to the arrest of DR. SELINGER. Pursuant to the false statements, records, and files submitted by ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 against DR. SELINGER. While acting within the scope of their duties/authority, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 appeared in Court and presented unsubstantiated testimony against DR. SELINGER.

203. The above stated willful, reckless, negligent actions taken by ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 against Plaintiff, while acting within the scope of their authorities, was foreseeable, known by, and/or should have been reasonably anticipated by THE CITY OF NEW YORK.

204. Defendants THE CITY OF NEW YORK is/are vicariously responsible and/or liable to Plaintiff for each and every above-described acts committed by ROBERT M. MORGENTHAU, KATHRYN QUINN, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10 while acting within the scope of their authorities as employees, agents, and law enforcement officers for THE CITY OF NEW YORK.

205. The breach of duty under the New York State Constitution by the Defendant officers

was a direct and proximate cause of the harm suffered by Plaintiffs. Said harm includes, pain and suffering which continues to this day, monetary expenses in lost wages and legal costs, personal humiliation, damage to reputation and loss of standing in the community, and severe emotional and psychological damage.

206. In addition, Plaintiff MASHA SELINGER was caused to suffer undue stress, pain, embarrassment, humiliation, emotional injury, loss of financial support, loss of consortium, loss of emotional support, injury to marital relations, monetary injuries, etc as adirect result of Defendants negligent/grossly negligent actions herein.

207. By reason of the foregoing, Plaintiff has been damaged in the sum of ten million ($10,000,000.00) dollars .

PUNITIVE DAMAGES ARE APPROPRIATE

208. That Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs 1 through 207 of this Complaint with the same force and effect as though fully set forth herein.

209. The acts of Defendants were willful, wanton, malicious and oppressive and were motivated solely by a desire to harm Plaintiffs, without regard for Plaintiffs' well being, and were based on a lack of concern and ill-will towards Plaintiffs. Such acts therefore deserve an award of Twenty Million Dollars ($20,000,000.00) as punitive damages.

WHEREFORE, Plaintiffs demand judgment against defendants:

a. On the First Cause of Action in the sum of Ten Million dollars ($10,000,000);

b. On the Second Cause of Action in the sum of Ten Million dollars ($10,000,000);

c. On the Third Cause of Action in the sum of Ten Million dollars ($10,000,000);

d. On the Fourth Cause of Action in the sum of Ten Million dollars ($10,000,000);

e. On the Fifth Cause of Action in the sum of Ten Million dollars ($10,000,000);

f. Punitive damages in the amount of Twenty Million Dollars ($20,000,000);

g. Declaratory Judgment that defendants wilfully violated plaintiffs' rights secured by federal and state law as alleged herein;

h. A formal, publicly announced statement of apology to Dr. Selinger, which clears his name and recant all previous public statements of wrongdoing made against Dr. Selinger;

i. Injunctive relief, requiring defendants to correct all past violations of federal and state law as alleged herein; to enjoin defendants from continuing to violate federal and state law as alleged herein; and to order such other injunctive relief as may be appropriate to prevent any future violations of said federal and state laws;

j. An order granting such other legal and equitable relief as the court deems just and proper.

k. Award costs of this action including attorney's fees to the plaintiffs pursuant to 42 USC § 1988 and any other common law rights.

A JURY TRIAL IS HEREBY DEMANDED.

Dated: February 28, 2007
Hempstead, New York

Respectfully Submitted,

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GREGORY CALLISTE, JR (GC 8140)
THE LAW OFFICES OF
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DOCKET NO.:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

Dr. PAUL SELINGER AND MARSHA SELINGER,

Plaintiffs

- against -

THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, in his individual and official capacity as District Attorney, KATHRYN QUINN, in her individual and official capacity as Assistant District Attorney, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10, in their individual and official capacities,

Defendants.

---X

SUMMONS AND COMPLAINT

---X

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